

105TH CONGRESS
1ST SESSION

H. R. 2948

To amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 8, 1997

Mr. GOODLING introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Workplace Religious
5 Freedom Act of 1997”.

6 **SEC. 2. AMENDMENTS.**

7 (a) DEFINITIONS.—Section 701(j) of the Civil Rights
8 Act of 1964 (42 U.S.C. 2000e(j)) is amended—

9 (1) by inserting “(1)” after “(j)”;

1 (2) by inserting “, after initiating and engaging
2 in an affirmative and bona fide effort,” after “un-
3 able”;

4 (3) by striking “an employee’s” and all that fol-
5 lows through “religious” and insert “an employee’s
6 religious”; and

7 (4) by adding at the end the following:

8 “(2) As used in this subsection, the term ‘employee’
9 includes a prospective employee.

10 “(3) As used in this subsection, the term ‘undue
11 hardship’ means an accommodation requiring significant
12 difficulty or expense. For purposes of determining whether
13 an accommodation requires significant difficulty or ex-
14 pense—

15 “(A) an accommodation shall be considered to
16 require significant difficulty or expense if the accom-
17 modation will result in the inability of an employee
18 to perform the essential functions of the employment
19 position of the employee; and

20 “(B) other factors to be considered in making
21 the determination shall include—

22 “(i) the identifiable cost of the accommo-
23 dation, including the costs of loss of productiv-
24 ity and of retraining or hiring employees or
25 transferring employees from one facility to an-

1 other, in relation to the size and operating cost
2 of the employer;

3 “(ii) the number of individuals who will
4 need the particular accommodation to a reli-
5 gious observance or practice; and

6 “(iii) for an employer with multiple facili-
7 ties, the degree to which the geographic sepa-
8 rateness or administrative or fiscal relationship
9 of the facilities will make the accommodation
10 more difficult or expensive.”.

11 (b) EMPLOYMENT PRACTICES.—Section 703 of such
12 Act (42 U.S.C. 2000e–2) is amended by adding at the end
13 the following:

14 “(o)(1) As used in this subsection:

15 “(A) The term ‘employee’ includes a prospective
16 employee.

17 “(B) The term ‘leave of general usage’ means
18 leave provided under the policy or program of an
19 employer, under which—

20 “(i) an employee may take leave by adjust-
21 ing or altering the work schedule or assignment
22 of the employee according to criteria deter-
23 mined by the employer; and

24 “(ii) the employee may determine the pur-
25 pose for which the leave is to be utilized.

1 “(C) The term ‘undue hardship’ has the mean-
2 ing given the term in section 701(j)(3).

3 “(2) For purposes of determining whether an em-
4 ployer has committed an unlawful employment practice
5 under this title by failing to provide a reasonable accom-
6 modation to the religious observance or practice of an em-
7 ployee, an accommodation by the employer shall not be
8 deemed to be reasonable if such accommodation does not
9 remove the conflict between employment requirements and
10 the religious observance or practice of the employee.

11 “(3) An employer shall be considered to commit such
12 a practice by failing to provide such a reasonable accom-
13 modation for an employee if the employer refuses to per-
14 mit the employee to utilize leave of general usage to re-
15 move such a conflict solely because the leave will be used
16 to accommodate the religious observance or practice of the
17 employee.

18 “(4) It shall not be a defense to a claim of unlawful
19 employment practice under this title for failure to provide
20 a reasonable accommodation to a religious observance or
21 practice of an employee that such accommodation would
22 be in violation of a bona fide seniority system if, in order
23 for the employer to reasonably accommodate such observ-
24 ance or practice—

1 “(A) an adjustment would be made in the em-
2 ployee’s work hours (including an adjustment that
3 requires the employee to work overtime in order to
4 avoid working at a time that abstention from work
5 is necessary to satisfy religious requirements), shift,
6 or job assignment, that would not be available to
7 any employee but for such accommodation; or

8 “(B) the employee and any other employee
9 would voluntarily exchange shifts or job assign-
10 ments, or voluntarily make some other arrangement
11 between the employees.

12 “(5)(A) An employer shall not be required to pay pre-
13 mium wages or confer premium benefits for work per-
14 formed during hours to which such premium wages or pre-
15 mium benefits would ordinarily be applicable, if work is
16 performed during such hours only to accommodate reli-
17 gious requirements of an employee.

18 “(B) As used in this paragraph—

19 “(i) the term ‘premium benefit’ means an em-
20 ployment benefit, such as seniority, group life insur-
21 ance, health insurance, disability insurance, sick
22 leave, annual leave, an educational benefit, or a pen-
23 sion, that is greater than the employment benefit
24 due the employee for an equivalent period of work

1 performed during the regular work schedule of the
2 employee; and

3 “(ii) the term ‘premium wages’ includes over-
4 time pay and compensatory time off, premium pay
5 for night, weekend, or holiday work, and premium
6 pay for standby or irregular duty.”.

7 **SEC. 3. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

8 (a) **EFFECTIVE DATE.**—Except as provided in sub-
9 section (b), this Act and the amendments made by section
10 2 take effect on the date of enactment of this Act.

11 (b) **APPLICATION OF AMENDMENTS.**—The amend-
12 ments made by section 2 do not apply with respect to con-
13 duct occurring before the date of enactment of this Act.

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